

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES**

In re Application of : Lalitha Agnihotri, et al.
For : METHOD AND SYSTEM FOR RETRIEVING
INFORMATION ABOUT TELEVISION
PROGRAMS
Serial No.: 10/084,712
Filed : February 25, 2002
Art Unit : 2623
Examiner : Peter C. Wilder
Att. Docket : US020056
Confirmation No. : 5878

APPEAL BRIEF

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P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

This Appeal Brief is submitted in support of the Notice of Appeal filed April 26, 2007.

I. REAL PARTY IN INTEREST

The party in interest is Koninklijke Philips Electronics N.V., by way of an Assignment recorded at Reel 012659, frame 0853.

II. RELATED APPEALS AND INTERFERENCES

Following are identified any prior or pending appeals, interferences or judicial proceedings, known to Appellant, Appellant's representative, or the Assignee, that may be related to, or which will directly affect or be directly affected by or have a bearing upon the Board's decision in the pending appeal:

NONE.

III. STATUS OF CLAIMS

Claims 1-6, 8, 9, 11, 13-17, 20 and 21 are on appeal.

Claims 1-6, 8, 9, 11, 13-17, 20 and 21 are pending.

No claims are allowed.

Claims 1-6, 8, 9, 11, 13-17, 20 and 21 are rejected.

Claims 7, 10, 12, 18 and 19 are canceled.

IV. STATUS OF AMENDMENTS

All Amendments have been entered.

V. SUMMARY OF CLAIMED SUBJECT MATTER

The subject matter recited in claim 1 relates to a method for retrieving information about television programs, including connecting to a website including information about a television program being watched, downloading the information from the website, processing the information

including combining summaries of other episodes, and displaying the information along with the television program being watched. *See, page 4, line 10 to page 14, line 6.*

The subject matter of claim 9 relates to a method for retrieving information about television programs, including connecting to a website including information about a television program being watched, downloading the information from the website, processing the information, and displaying the information along with the television program being watched. According to claim 9, downloading the information from the website includes identifying information about events in other episodes similar to an event in the television program being watched, extracting the information about events in other episodes from the website, and transmitting the information about events in other episodes over a network. *See, page 4, line 10 to page 14, line 6.*

The subject matter of claim 20 relates to a video processing system, including means for connecting to a website including information about a television program being watched, means for downloading the information from the website, means for processing the information including combining summaries of other episodes, and means for storing the information for later playback. *See, page 4, line 10 to page 14, line 6.*

The subject matter of claim 21 relates to a method for retrieving information about television programs, including connecting to a website including information about a television program being watched, downloading the information from the website, processing the information, and displaying the information along with the television program being watched, wherein processing the information includes combining video clips of events in other episodes

similar to an event in the television program being watched. *See*, page 4, line 10 to page 14, line 6.

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

The following grounds of rejection are presented for review:

A. Claims 1-5, 8-11, 13-16, 20 and 21 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over U.S. Patent No. 6,756,997 to Ward III et al. (hereinafter "Ward"), in view of U.S. Patent No. 6,263,507 to Ahmad.

B. Claims 6 and 17 are rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ward, in view of Ahmad, and further in view of U.S. Patent No. 6,240,555 to Shoff et al. (hereinafter "Shoff").

C. Claim 9 is rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ward, in view of Shoff.

VII. ARGUMENT

A. Rejection of Claims 1-5, 8-11, 13-16, 20 and 21 Under 35 U.S.C. § 103(a)

The Final Office Action dated January 26, 2007, rejects claims 1-5, 8-11, 13-16, 20 and 21 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ward, in view of Ahmad.

1. Claims 1, 9, 20 and 21

Claims 1 and 20 recites “summaries” according to the combinations further recited therein. The Office Action correctly concedes that Ward does not disclose, teach or suggest this subject matter.

In order to overcome this admitted deficiency in Ward, the Office Action relies on Ahmad. However, none of the disclosure, teaching or suggestions in Ahmad pertains to summaries of episodes. Rather, even assuming, *arguendo*, that the broadcasts disclosed in Ahmad correspond to episodes as recited in claims 1 and 20, Ahmad only pertains to segments of news broadcasts or entire news broadcasts, but never a summary of either a segment or a summary of an entire news broadcast. This argument, focusing on the recitation of “summaries” in claims 1 and 20, is referred to below as the “first” argument.

In addition to the first argument, claims 1, 9, 20 and 21 recite “episode[s]” according to the combinations further recited therein. It is respectfully submitted that the specification makes clear that a news broadcast is outside scope of an “episode” of a television program as that term is defined according to claims 1, 9, 20 and 21. The disclosure, teaching and suggestion of Ahmad only pertains to news broadcasts. This argument, focusing on the recitations of “episode[s]” in claims 1, 9, 20 and 21, is referred to below as the “second” argument.

For at least the foregoing reasons, claims 1, 9, 20 and 21 are patentable over Ward in view of Ahmad because Ward in view of Ahmad does not disclose each and every element recited in claims 1, 9, 20 and 21.

Regarding claim 1, the Office Action includes further discussion in section 11 on pages 3-4. The Office Action correctly identifies the first and second arguments made by the Appellant. These arguments are equally applicable to claims 9, 20 and 21, although this is not acknowledged by the Office Action.

In responding to the first of the two arguments, the Office Action appears to completely overlook the fact that Appellant's first argument focused on the recitation in claims 1 and 20 of "summaries." Instead of addressing this subject matter recited in claims 1 and 20, the Office Action's response to Appellant's first argument focuses on the definition of an episode. Thus, the Office Action's response to Appellant's first and second arguments are essentially a response only to Appellant's second argument (i.e., the Office Action is non-responsive to Appellant's first argument).

For the foregoing reasons, Appellant's rebuttal of the rejection was not addressed by the Office Action. Thus, Appellant respectfully submits that the finality of this rejection is reversible as a matter of law. Therefore, in addition to reversing the rejection, Appellant respectfully requests that the Board reverse the finality of the Office Action.

2. Claims 2-5, 8, 11 and 13-16

Claims 2-5 and 8 depend from claim 1 and are therefore also patentable for at least the reasons stated above in connection with claim 1, as well as for the separately patentable subject matter recited therein. Likewise, claims 11 and 13-16 depend from claim 21 and are therefore also patentable for at least the reasons stated above in connection with claim 21, as well as for the separately patentable subject matter recited therein.

B. Rejection of Claims 6 and 17 Under 35 U.S.C. §103(a)

The Final Office Action dated January 26, 2007, rejects claims 6 and 17 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ward, in view of Ahmad, and further in view of Shoff.

Claims 6 and 17 depend from claims 1 and 21, respectively, and are therefore also patentable for at least the reasons stated above in connection with claims 1 and 21, respectively, as well as for the separately patentable subject matter recited therein.

C. Rejection of Claim 9 Under 35 U.S.C. §103(a)

The Final Office Action dated January 26, 2007, rejects claim 9 under 35 U.S.C. § 103(a) as allegedly being unpatentable over Ward, in view of Shoff.

Claim 9 recites “events” several times according to the combination recited therein. With respect to this subject matter, the Office Action cites column 5, lines 60-64 of Shoff and Figure 3 depicting the “target specifications” referred to therein. Specifically, the “target specifications” disclosed in Shoff are the title, actor, network, time, stereo, and close captioning. None of the “target specifications” disclosed, taught, or suggested in Fig. 3 of Shoff correspond to events as recited in claim 9.

Further, Claim 9 recited episodes. Ward is deficient with respect to this subject matter recited in claim 9 for the reasons stated above in connection with the rejection of independent claims 1, 9 and 21 as allegedly being unpatentable over Ward in view of Ahmad. For at least the following reasons, Shoff fails to overcome the deficiencies in Ahmad and Ward described above.

In the paragraphs bridging pages 4 and 5, the Office Action responds to Appellant's arguments with respect to claim 9. However, the text included in the description column in Figure 3 of Shoff are titles of entire episodes. Because this text corresponds to titles of entire episodes, it cannot be an event "in an episode" as recited in claim 9 (emphasis added).

Additionally, it is impermissible for an Examiner to engage in hindsight reconstruction of the prior art using Applicant's claims as a template and selecting elements from references to fill the page. Rather, prior art references may be modified or combined to render obvious a subsequent invention only if there was some suggestion or motivation to do so derived from the prior art itself, the nature of the problem to be solved, or the knowledge of one of ordinary skill in the art. *Sibia Neurosciences*, 225 F.3d 1349, 1356 (Fed. Cir. 2000); *ATD Corp. v. Lydall, Inc.*, 159 F.3d 534, 546 (Fed. Cir. 1998).

Applicant respectfully asserts that only by the impermissible use of hindsight knowledge of Applicant's own disclosure would the Examiner have acquired a motivation to combine the teachings of the cited references according the precise combination including certain elements and excluding certain others as necessary to achieve the subject matter according to the combinations recited in the rejected claims.

With respect to alleged motivation to combine the respected teaching of Shoff and Ward, the Office Action refers to column 1, lines 32-35 of Shoff. See the paragraph bridging pages 8 and 9 of the Office Action. However, the cited portion of Shoff only establishes a motivation to provide interactive programming content in general. In other words, the alleged motivation to combine certain specific teachings of Ward and Shoff to the exclusion of other teachings in Ward and Shoff in

order to arrive at the subject matter previously recited in claim 6 and now recited in claim 9, the Office Action cites a motivation for nothing more than the entire broad field of interactive programming to which all of the claims pertain. Applicant respectfully submits that this alleged motivation is insufficient to satisfy the motivation required to arrive at the specific combination recited in claim 9.

CONCLUSION

For at least the reasons discussed above, it is respectfully submitted that the rejections are in error and that claims 1-6, 8, 9, 11, 13-17, 20 and 21 are in condition for allowance. For at least the above reasons, Appellants respectfully request that this Honorable Board reverse the rejections of claims 1-6, 8, 9, 11, 13-17, 20 and 21.

Respectfully submitted,
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June 19, 2007

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VIII. CLAIMS APPENDIX

CLAIMS INVOLVED IN THE APPEAL:

1. A method for retrieving information about television programs, said method comprising the steps of:

connecting to a website including information about a television program being watched;
downloading the information from the website;
processing the information including combining summaries of other episodes; and
displaying the information along with the television program being watched.

2. The method of claim 1, where the information about the television program is selected from the group consisting of textual information, audio information, video information and applications.

3. The method of claim 1, where the information about the television program is selected from the group consisting of a particular item in the program, a particular event, a character's role in the program, a history of the program, a summary of other episodes of the program, individual summaries of other episodes and similar events in other episodes.

4. The method of claim 1, wherein the connecting to the website includes using a mechanism selecting from the group consisting of a tag from an electronic program guide that

corresponds to the television program being watched, a search engine and a predetermined address of a website.

5. The method of claim 1, wherein downloading the information from the website includes:
extracting the information from the website; and
transmitting the information over a network.

6. The method of claim 1, wherein downloading the information from the website includes:
identifying information about events in other episodes similar to an event in the television program being watched;
extracting the information about events in other episodes from the website; and
transmitting the information about events in other episodes over a network.

8. The method of claim 1, wherein processing the information includes combining video clips of events in other episodes similar

9. A method for retrieving information about television programs, said method comprising the steps of:
connecting to a website including information about a television program being watched;
downloading the information from the website;
processing the information; and

displaying the information along with the television program being watched, wherein
downloading the information from the website includes:

identifying information about events in other episodes similar to an event in the television
program being watched;

extracting the information about events in other episodes from the website; and
transmitting the information about events in other episodes over a network.

11. The method of claim 21, wherein processing the information includes combining
summaries of other episodes.

13. The method of claim 21, where the information about the television program is selected
from the group consisting of textual and video information.

14. The method of claim 21, where the information about the television program is selected
from the group consisting of a history of the program, a summary of other episodes of the
program, individual summaries of other episodes and similar events in other episodes.

15. The method of claim 21, wherein connecting to the website includes using a mechanism
selecting from the group consisting of a tag from an electronic program guide that corresponds to
the television program being watched, a search engine and a predetermined address of a website.

16. The method of claim 21, wherein the means for downloading the information from the website includes:

means for extracting the information from the website; and
means for transmitting the information over a network.

17. The method of claim 21, wherein downloading the information from the website includes:

identifying information about events in other episodes similar to an event in the television program being watched;
extracting the information about events in other episodes from the website; and
transmitting the information about events in other episodes over a network.

20. A video processing system, comprising:

means for connecting to a website including information about a television program being watched;

means for downloading the information from the website;
means for processing the information including combining summaries of other episodes;
means for storing the information for later playback.

21. A method for retrieving information about television programs, said method comprising the steps of:

connecting to a website including information about a television program being watched;
downloading the information from the website;
processing the information; and
displaying the information along with the television program being watched,
wherein processing the information includes combining video clips of events in other
episodes similar to an event in the television program being watched.

IX. EVIDENCE APPENDIX

A copy of the following evidence 1) entered by the Examiner, including a statement setting forth where in the record the evidence was entered by the Examiner, 2) relied upon by the Appellant in the appeal, and/or 3) relied upon by the Examiner as to the grounds of rejection to be reviewed on appeal, is attached:

NONE

X. RELATED PROCEEDINGS APPENDIX

Copies of relevant decisions in prior or pending appeals, interferences or judicial proceedings, known to Appellant, Appellant's representative, or the Assignee, that may be related to, or which will directly affect or be directly affected by or have a bearing upon the Board's decision in the pending appeal are attached:

NONE